

California Regional Water Quality Control Board
Santa Ana Region

September 17, 2004

ITEM: 7

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – David and Cynthia Roy, 18960 Mariposa Avenue, Riverside, Riverside County, APN 266-110-016

DISCUSSION:

On August 20, 2004, David and Cynthia Roy contacted staff requesting an exemption from the Board's minimum lot size requirements for the use of a septic tank-subsurface disposal system on a 0.87-acre lot at 18960 Mariposa Avenue, Riverside. Mr. and Mrs. Roy wish to install a second home (mobile home) and septic tank-subsurface disposal system on their lot.

There is currently an existing home on the lot that is connected to an existing septic tank-subsurface disposal system. This area of Riverside is unsewered. Mr. and Mrs. Roy purchased the lot/home with the intention of purchasing a second dwelling unit/mobile home to be placed on the lot, where they could care for their parents.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region. Mr. and Mrs. Roy's proposed development is a new development as defined in Resolution No. 89-157 and is therefore subject to the minimum lot size requirements specified therein. With a density of 0.435 acres per dwelling unit, Mr. and Mrs. Roy's proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied the Roy's request for an exemption from the minimum lot size requirements.

The minimum lot size exemption criteria to be used by Board staff specify that replacement of existing septic tank-subsurface disposal systems to allow additional flows resulting from additions to existing dwelling units is exempt from the one half acre requirement. However, the Board's exemption criteria specifically state that such an exemption does not apply to the addition of freestanding structures, such as a second home (mobile home) on the Roy's property. In establishing the exemption criteria, the Board made this distinction because of the potential that the addition of freestanding structures could result, either immediately or in the future, in substantially greater wastewater flows than would be expected as the result of additions to an existing dwelling.

Mr. and Mrs. Roy note that the additional flows that would occur as a result of this project would be no greater than the flows that would be allowed if they were to add on to the existing house and replace the existing septic tank to accommodate the increased flows, which would be exempt from the minimum lot size criteria. On this basis, Mr. and Mrs. Roy are appealing to the Regional Board for reversal of staff's denial of an exemption from the minimum lot size requirements.

While it is true that there would be no difference in wastewater flows on an immediate basis, i.e., while the Roys own the property and their parents reside with them, there is no guarantee that wastewater flows would not increase considerably in the future. As stated above, it was on this basis that the Board determined not to exempt the addition of freestanding structures from the minimum lot size requirements. However, this is an exceptional case in that the proposed additional structure is a mobile home. Mr. and Mrs. Roy have offered to remove the second home (mobile home) and septic system from the property once it is no longer required and have agreed to enter into an Agreement of Restriction to be recorded with their property Chain of Title that stipulates that this property may not be sold until the second home (mobile home) has been removed.

RECOMMENDATION:

Approve Mr. and Mrs. Roy's request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157 with the following stipulations: 1) Once the second home (mobile home) is no longer required for use of the Roy family, it shall be removed from the property, and 2) Mr. and Mrs. Roy must enter into an Agreement of Restriction, which shall become a part of the Chain of Title, that the property may not be sold until the mobile home has been removed.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
Riverside County Environmental Health – Sam Martinez/Greg Dellenbach
Riverside County Building and Safety – Steve Dondalski
Riverside County Planning – Mark Balys